



Award No. 5742

Docket No. 5612

2-CB&Q-SM '69

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee John H. Dorsey when award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 95, RAILWAY EMPLOYES'
DEPARTMENT, AFL - CIO
(SHEET METAL WORKERS)**

CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY

DISPUTE: CLAIM OF EMPLOYES:

1. The Carrier violated the provisions of the current agreement when they improperly assigned Officer Trainee J. Ragsdale to perform work of Sheet Metal Workers' craft in the Boiler Department January 11, 1967; Radiator Department January 12, 1967; and the Oil Cooler Department January 13, 1967; at the W. Burlington Shops.
2. That accordingly, the Carrier be ordered to additionally compensate Sheet Metal Workers: R. A. Rothlauf in the amount of eight (8) hours pay at the pro rata rate for January 11, 1967; and O. O. Dideriksen and M. R. Balzer, each in the amount of four (4) hours at pro rata rate for January 12, 1967; and G. C. Huston in the amount of eight (8) hours' pay at pro rata rate for January 13, 1967; account Carrier depriving the above Claimants, subject to all terms of the parties' contract, the right to perform work coming within the scope of said contract, when the work referred to hereinabove was improperly assigned by the Carrier, and was performed by Officer Trainee J. Ragsdale, who is not subject to any provisions of the current controlling negotiated agreement.

EMPLOYES' STATEMENT OF FACTS: The Chicago, Burlington and Quincy Railroad Company, hereinafter referred to as the Carrier, maintains large repair shops at West Burlington, Iowa, which includes facilities, tools and equipment, as well as a force of skilled employees, for the overhaul and repair of diesel locomotives and their component parts.

Sheet Metal Workers R. A. Rothlauf, O. O. Dideriksen, M. R. Balzer and G. C. Huston, hereinafter referred to as the claimants, are regularly employed by the Carrier at West Burlington, Iowa as Sheet Metal Workers to perform Sheet Metal Workers work.

CONCLUSIONS

In concluding its position in this case, the Carrier has shown:

1. The work performed by Officer Trainee Ragsdale at West Burlington Shop for which the Organization demands a penalty payment of 24 hours at the pro rata rate was strictly an orientation to familiarize him with the different components of a diesel locomotive, was non-productive and of no benefit to the Carrier except for the training received, and was not the type of work specified in Rules 27 and 62 of the Schedule Agreement. In other words, Ragsdale performed no mechanics' work. He is not capable of performing mechanics' work and none was performed.
2. Claimants were not replaced by Ragsdale. They stood by observing him and correcting his mistakes. They did not leave their respective departments at any time.
3. The General Chairman of the Organization here involved has admitted that no mechanics' work was performed by Ragsdale. Other Shop Craft organizations, as well as representatives of other employees, have admitted that their craft work was not performed by Ragsdale and other officer trainees. They have submitted no claims covering the work performed in their respective crafts.
4. The Claimants were in no way adversely affected or damaged. In fact, they were the beneficiaries of additional work. In order for your Board to award damages, the Organization must prove a violation of the contract and in addition, the amount of damages incurred. This the Organization cannot do. This Board is without authority to impose a penalty, even if it finds the contract was violated with which we violently disagree. No penalty is provided in the collective bargaining agreement, nor is there anything in the Railway Labor Act which empowers the National Railroad Adjustment Board to fashion legal remedies or to establish new areas of contract law.
5. If your Board were to sustain the claims here involved, it would completely disrupt the Carrier's Engineering Training Program and possibly destroy it completely.

(Exhibits not reproduced.)

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute were given due notice of hearing thereon.

The situs of claimed Agreement violations is Carrier's locomotive shop at West Burlington, Iowa. At the facility Carrier employs approximately 300 in the Mechanical Department—all shop crafts are represented. There are 38 sheet metal craft employees. That craft is Petitioner herein.

In 1966 Carrier instituted an Engineer Training Program with the objective of identifying and developing future management talent for operation and engineering functions. The areas of training in the curriculum are: (1) Transportation—Operations; (2) Construction and maintenance of fixed plant; (3) Construction and maintenance of equipment.

The Training Program for the first group of trainees commenced on July 1, 1966. Officer Trainee J. Ragsdale, herein called Trainee, was among the first group of trainees. As part of his training the parties are in agreement, except as to hours engaged, that the following statement of facts in Carrier's Submission are true:

"As part of his required training at the West Burlington Locomotive Shop, on January 11, 1967 Officer Trainee Ragsdale was permitted to work on a steam generator for approximately 2-3/4 hours. Officer Trainee Ragsdale applied four pieces of 16-gauge soft steel 20" x 30" to the outer casing of a steam generator by inserting twenty 5/16" x 1-1/4" standard cap screws. Sheet Metal Worker R. A. Rothlauf was present and observed the work performed by Officer Trainee Ragsdale.

"On January 12, 1967, Officer Trainee Ragsdale was permitted to attempt to solder a radiator for approximately 2-1/2 hours while Sheet Metal Worker O. O. Dideriksen was observing and instructing him. Afterwards, it took Sheet Metal Worker Dideriksen approximately 1-1/2 hours to correct Mr. Ragsdale's mistakes and make the radiator serviceable.

"Also on January 12, 1967, Officer Trainee Ragsdale was permitted to put test headers on the ends of two radiators to test for leaks for approximately two hours, while Sheet Metal Worker M. R. Balzer observed and instructed him. Trainee Ragsdale placed the test headers on the ends of the radiators by inserting forty 1/2" x 1-3/4" bolts in each of them to hold them in place. One-half inch nuts were then placed on the bolts and tightened with an impact wrench. Ragsdale then attached a water hose and tested the radiators with 45 lbs. of water pressure. He made a visual inspection for leaks. The water was then blown out with air and the test headers were removed.

"On January 13, 1967, Officer Trainee Ragsdale placed 455 agitators in an oil cooler which took him six hours to perform while Sheet Metal Worker G. C. Huston observed and instructed him. These agitators are placed in tubes to slow down the flow of oil through the cooler. They are then laced with wire to hold them in place. The heads are then put on and held in place by eighty 1/2" x 1-3/4" SAE bolts and nuts. These are also tightened with an impact wrench."

From these facts Petitioner argues that Trainee performed work reserved to the craft in violation of the Agreement.

Looking at the facts and Agreement in the light most favorable to Petitioner we find: (1) Trainee was not a qualified mechanic or apprentice in the craft, Rule 51; (2) the work attempted to be performed by Trainee was within the classification of work reserved to the craft, Rule 27 and 62. With these findings as premise the issue to be resolved is whether, under the factual circumstances as a whole, the performance of the work by Trainee caused damage to Claimants or the craft.

It is to the benefit of Petitioner, as well as Carrier, that Officers of Carrier by physical exposure to work of the craft, recognize the high degree of skill required in performance of the work of the craft. Such understanding is an attribute in good faith collective bargaining in negotiations between Carrier and craft concerning wages, hours, conditions of employment and interpretation and application of existing agreements. The Training Program cannot be faulted insofar as it functions to attain this objective unless it is accomplished in such a manner as would inflict damage to employees within the craft to whom the right to the work is contractually reserved.

In the instant case Trainee did perform—more accurately, attempted to perform—work of the craft. But, Claimant, in each instance, suffered no wage loss. While Trainee was so engaged the Claimant, who in the ordinary course would have performed the work, stood aside, observed the Trainee's endeavors and was paid for the time as though he was performing the work. Claimants suffered no loss. The craft as a whole suffered no loss. We will deny the claim.

A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

ATTEST: Charles C. McCarthy
Executive Secretary

Dated at Chicago, Illinois, this 27th day of June, 1969.